IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH, JAIPUR

S.B.CIVIL WRIT PETITION NO.1897/2001.

Rajasthan Telematics Limited.

VERSUS

The Excise Commissioner & Anr.

08.09.2006.

HON'BLE MR.JUSTICE DALIP SINGH

Mr.Mahesh Sharma on behalf of
Mr.Amit Sharma, for the petitioner.
Mr.R.B.Mathur, for the respondents.

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The petitioner in this writ petition has challenged Annexure-2 the auction notice dated 17.04.2001 issued in respect of the dues in pursuance of the excise license granted to one Paras Ram.

The contention of the learned counsel for the petitioner is that the property in dispute is alleged to be that of Paras Ram and even the petitioner has a share in the property.

I have heard learned counsel for the parties.

Learned counsel for the respondent has brought to the notice of this court that Paras Ram had also preferred a writ petition being S.B.Civil Writ Petition No.268/2001 in the matter of order passed by the Excise Commissioner and consequent auction notice. This court vide order dated 31.08.2005 disposed of the writ petition filed by the Paras Ram holding that the petitioner has an alternative remedy of appeal under Section 9-A of the Excise Act and without availing the alternative remedy, the petitioner has filed this writ petition as such the writ petition is not maintainable on the ground of alternative remedy. The writ petition filed by Paras Ram was dismissed on the ground of alternative remedy, however, the petition of Paras Ram was disposed of with a direction that 15 days time is granted to the petitioner to prefer the appeal before the

appellate authority and for the period of 15 days, the recovery against the petitioner was ordered to be stayed till the filing of appeal.

Since the matter arises out of the order passed against Paras Ram and in respect of the same property which is alleged to be of Paras Ram, this writ petition also deserves to be decided in the light of the order passed in the said writ petition being S.B.Civil Writ Petition No.268/2001 filed by Paras Ram and consequently, if the petitioner is aggrieved by the auction notice issued by the respondents, the petitioner may prefer an appeal under Section 9-A, as contended by the learned counsel for the respondents before the appellate authority.

Subject to the above, this writ petition is dismissed on the ground mentioned above. The writ petition as well as the stay application stand disposed of.

(DALIP SINGH),J.

Solanki DS, Jr.P.A.